

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

In the Matter of:

Evansdale Branch
Evansdale, Iowa 50707
(Mayor Chad Deutsch, Petitioner)

Docket No. A2013-2

**UNITED STATES POSTAL SERVICE NOTICE OF FILING ADMINISTRATIVE
RECORD AND APPLICATION FOR NON-PUBLIC TREATMENT**
(November 23, 2012)

By means of Order No. 1540 (November 15, 2012), the Postal Regulatory Commission docketed correspondence from the Mayor of Evansdale, Iowa, assigning PRC Docket No. A2013-2 as an appeal pursuant to 39 U.S.C. § 404(d). That Order, at page 3, set November 23, 2012 as the date by which “[t]he Postal Service shall file the applicable administrative record regarding this appeal” or “[a]ny responsive pleading” to this Notice. This pleading responds to that directive.

As an initial matter, this appeal concerns the discontinuance of a branch, which is a retail facility that is Postal Service-operated and is under the responsibility of an Administrative Post Office. See Handbook PO-101, Postal Service-Operated Retail Facilities Discontinuance Guide (January 2012), at 53 (defining Classified Branch); *Wilson v. United States Postal Service*, 441 F. Supp. 803, 806-807 (C.D. Cal. 1977) (recognizing the situation where a “station or branch is ... subordinate to another Post Office”). In the Postal Service’s view,

the discontinuance of the Evansdale Branch does not require an official administrative record because the Evansdale Branch is not a Post Office.¹ Nonetheless, the Postal Service submits the attached administrative record,² which documents how Postal Service management considered the various effects of the instant discontinuance action on customers, employees, and the community.

The Postal Service also notes that the procedural requirements of 39 U.S.C. § 404(d) do not apply because the discontinuance of Evansdale Branch does not qualify as a closure envisioned by 39 U.S.C. § 404(d). As recognized in PRC Docket No. A2010-3, the section 404(d) procedural requirements apply only where postal customers lose access to postal services, and postal customers do not lose access to postal services where alternate retail facilities are located in “close proximity” to the discontinued station. See Order No. 477, PRC Docket No. A2010-3 (June 22, 2010) at 7-8. In this case, customers will continue to have access to the Waterloo Post Office, located approximately 3 miles from the Evansdale Branch, the Raymond Post Office, located approximately 4 miles

¹ The Postal Service understands that 39 U.S.C. § 404(d) does not extend to the review of Postal Service decisions regarding the discontinuance of stations and branches. See *generally* Reply Brief of the United States Postal Service (December 16, 2009), section III (pp. 6-12), PRC Docket No. N2009-1; Comments of United States Postal Service Regarding Jurisdiction Under (Current) Section 404(d), PRC Docket No. A2010-3 (April 19, 2010); Initial Comments of the United States Postal Service, section I (pp. 2-7), PRC Docket No. RM2011-13 (October 3, 2011). In this matter, Petitioner does not allege facts that constitute a condition precedent to any jurisdiction of the Commission under section 404. 39 U.S.C. § 404(d)(5). Although the Postal Service has modified its regulations to apply many of the section 404(d) requirements to stations and branches, these rules apply prospectively, and not to this discontinuance action because it commenced well before July 14, 2011, when the new rules in 39 CFR 241.3 took effect.

² As set forth in its Application for Non-Public treatment, filed concurrently with this Notice as Exhibit 1, the Postal Service files a non-public version of the administrative record under seal to protect personally identifiable information of individual customers.

away from the Evansdale Branch, and four nearby Hy-Vee retail stores³, the closest located about 2.5 miles from the Evansdale Branch. Accordingly, due to the close proximity of other postal facilities and the presence of alternate access options, the discontinuance of Evansdale Branch will not cause postal customers to lose access to postal services, and the section 404(d) procedures do not apply.

Even assuming the section 404(d) requirements were applied to the discontinuance of Evansdale Branch, the Postal Service satisfied the salient provisions of section 404(d). On April 8, 2011, the Postal Service distributed questionnaires to customers notifying them of the possible discontinuance of Evansdale Branch, and inviting comments on the potential change to the postal retail network. Administrative Record at Item No. 20, Questionnaire Instruction Letter to Postmaster, and Item No. 21, Cover Letter and Questionnaire, at 1. The Postal Service also made these questionnaires available over the counter for retail customers at the Evansdale Branch. *Id.* Through this notification, the Postal Service furnished customers with well over 60 days' notice of the Postal Service's intention to consider discontinuance of the facility. The Postal Service received and responded to 66 customer questionnaires. Administrative Record at Item No. 22, Returned Customer Questionnaires and Postal Service Response Letters. In addition, representatives from the Postal Service were available at Amvets for a community meeting on April 25, 2012 to answer questions and provide information to customers. Administrative Record at Item No. 60, Revised

³ The address of all four Hy-Vee stores and their approximate mileage is located on page 2 of the Revised Final Determination. These stores serve as contract units that offer window services, including stamp sales and Global Express Guaranteed®.

Final Determination to Close the Suspended Evansdale, IA Branch and Continue to Provide Service By Nearby Post Office, Alternate Access and City Delivery Carrier (Revised FD), at 2. On September 2, 2011, the Postal Service notified customers of its decision to close the Evansdale Branch. Administrative Record at Item No. 53, Letter to Customers. After the closing was remanded by the Commission, the Postal Service revised the Final Determination and notified the public of the revisions on October 31, 2012. Administrative Record at Item No. 58, Customer Notification of Final Determination Posting.

The Postal Service further reconsidered all of the pertinent criteria of section 404(d), including the effect on postal services, the community, and employees, and the economic savings arising from the discontinuance. Administrative Record at Item No. 57, Revised FD. It reconsidered customer concerns related to postal services, including the conditions of other nearby postal facilities; the community, including the effect on senior citizens and local businesses; and employees. *Id.* As reflected in the administrative record, the Postal Service considered these concerns during the initial decision-making process. *See id.* With respect to economic savings, the Postal Service developed an assessment of the costs that serve as a basis for its estimate of economic savings. Administrative Record at Item No. 57, Revised FD, at 7.

In its responses to customer questionnaires, the Postal Service addressed customer concerns about obtaining services from a different postal retail location. Specifically, the Postal Service informed customers that if they were currently receiving letter carrier delivery, after the discontinuance of Evansdale Branch,

there would be no change to their delivery service. If they were a Post Office box customer, after the discontinuance of Evansdale Branch, they would have a choice of post office box delivery at the Waterloo Post Office or carrier delivery at their residence. Administrative Record at Item No. 55, Customer Notification of Closure; see also Item No. 21, Cover Letter and Questionnaire, at 1, and Item No. 33, Proposal Exhibit. The Postal Service also explained that customers currently receiving Post Office Box service would be required to change their mailing address. Administrative Record at Item No. 55, Customer Notification of Closure. In addition, the Postal Service identified the numerous retail service options available to customers, including the Waterloo Post Office within 3 miles of Evansdale Branch, the Raymond Post office within 4 miles of the Evansdale Branch, and the four Hy-Vee retail stores near the Evansdale Branch, with the closest 2.5 miles away. Administrative Record at Item No. 57, Revised FD, at 2.

In summary, the Postal Service submits the attached documentation in support of the foregoing discussion.

Additionally, the Postal Service would also like to address the Petitioner's request that the planned closing be suspended during the pendency of this appeal. The Petitioner's request is moot. The Evansdale Branch is currently in emergency suspension status.⁴ The Postal Service does not intend to proceed with the implementation of the revised final determination until the conclusion of this appeal. In sum, the Petitioner's request is moot, because the Branch is currently suspended, and there is no indication that the Postal Service intends to give effect to the revised final determination before this appeal is concluded.

⁴ Item No. 53, Letter to Customers.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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ATTACHMENT 1

APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. § 3007.21 and Order No. 225,¹ the United States Postal Service (Postal Service) applies for non-public treatment of certain materials filed under seal with the Commission. The Evansdale Branch Administrative Record includes customer information related to operations at the Evansdale Branch 50707.

(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);

The materials designated as non-public consist of personally identifiable information (PII) that was redacted in conformity with 39 U.S.C. § 410(c)(1) and 5 U.S.C. § 552(b)(6). The Postal Service seeks nonpublic treatment of PII because the information was collected under procedures in effect prior to changes made to Handbook PO-101 and postal survey forms and correspondence, which now make it clear to survey respondents in station and branch closing actions that survey responses may be publicly available in an administrative record. Because the portions of the materials that the Postal Service applies to file under seal fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials qualify as exempt from public disclosure and grant its application for their non-public treatment.

¹ PRC Order No. 225, Final Rules Establishing Appropriate Confidentiality Procedures, PRC Docket No. RM2008-1 (June 19, 2009).

(2) Identification, including name, phone number, and email address for any third-party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;

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(3) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;

The non-public material contains PII of individual customers, including names, addresses, and contact information, is treated as non-public in this filing.

The Postal Service maintains that the non-public portions of these materials should remain confidential.

(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;

If the information that the Postal Service seeks to protect from disclosure due to its confidential nature was disclosed publicly, the Postal Service considers it quite likely that it would suffer harm. Although the harm concerning disclosure of PII about customers is not “commercial” in nature, the Postal Service notes that the disclosure of the PII of its customers would expose these customers to an increased risk of invasions of privacy and the greater possibility of identity theft and related crimes.

(5) At least one specific hypothetical, illustrative example of each alleged harm;

Harm: Disclosing personal identifying information of Postal Service customers would expose these customers to an increased risk of identity theft and related crimes.

Hypothetical: A party uses the PII of Postal Service customers, in combination with other data sources, to steal a customer's identity through fraudulent credit applications. This could have a temporary negative impact on the customer's credit status, and prevent the customer from engaging in financial transactions until the false applications are purged from credit files.

(6) The extent of protection from public disclosure deemed to be necessary;

The Postal Service maintains that the redactions of PII should be withheld from any persons who have not agreed to the Commission's standard confidentiality requirements.

(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30. The Postal Service submits that the ten year period is not sufficient to protect the interests of individuals whose PII is included in the filed information. As such, the Postal Service believes that such information should be accorded non-public status indefinitely.

(8) Any other factors or reasons relevant to support the application.

Under prior Postal Service practices which continue to apply to this discontinuance action, a discontinuance study for a station or branch, such as

the Evansdale Branch, is not undertaken pursuant to the standards for a discontinuance study affecting an independent Post Office, where a formal proposal is posted for sixty days, with the underlying administrative record then made available for inspection. In discontinuance studies subject to section 404(d), customers participating in or providing input for the discontinuance study's purposes are customarily advised that their input will become part of the administrative record and subject to public viewing, a fact which customers may want to consider as they craft their comments or other input. With respect to participants in a discontinuance study affecting a station or branch subject to prior rules and practices, however, study participants are not necessarily made aware that their input will become part of the administrative record that is subject to public viewing. The Postal Service accordingly proceeds with an expectation that, consistent with 39 U.S.C. § 410(c)(1) and 5 U.S.C. § 552(b)(6), other federal agencies will also keep such information confidential.

Conclusion

For the reasons discussed, the Postal Service requests that the Commission grant this application for non-public treatment of the identified materials.